

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:11-cv-225**

HELEN CLIETTE HOUEY and
EMMANUEL HOUEY,
Plaintiffs,
vs.
CAROLINA FIRST BANK, TD BANK,
Defendant,

ORDER

THIS MATTER has come before the undersigned, pursuant to a filing made by counsel for defendant entitled “Notice of Non-Selection of Mediator” (#17). In the filing, counsel for defendant states that he has attempted to consult with the pro se plaintiffs as to the selection of a mediator. Plaintiffs did not respond to counsel for defendant’s recommendation regarding selection of a mediator. It further appears to the court from an examination of the Order (#18) of United States District Judge Martin Reidinger that although the plaintiffs are appearing pro se, their daughter Michelle Smith, is attempting to appear as attorney for plaintiffs even though she is not a licensed attorney nor is she a party in this matter. Counsel for defendant, in his notice reflected that he had received an email from Michelle Smith regarding the issue of mediation. A further examination of the file in this matter shows that copies of various documents have been sent to the pro se plaintiffs by mail and those notices have been returned as undeliverable even though they were sent to the address reflected in the file.

After considering the pleadings filed in this matter, it appears that this case is not

suitable for alternative dispute resolution. Local Rule 16.2(B) provides: "The judicial officer may determine, either *sua sponte* or on application of any party, that any other case is not suitable for ADR, in which case no ADR procedure will be ordered." The undersigned finds this matter is not suitable for ADR.

ORDER

IT IS, THEREFORE, ORDERED that the parties shall not be required to participate in mediation as set forth in the Pretrial Order and Case Management Plan (#11) previously entered in this matter.

Signed: November 14, 2011

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

